

PENALTY SUMMARY SHEET

DaimlerChrysler Corporation
Toledo Assembly Plant #1
1000 Jeep Parkway
Toledo, Ohio 43657

NATURE OF VIOLATION	CITATION OF REGULATION OR LAW	HARM/ DEVIATION	GRAVITY- 1st Day PENALTY	MULTI- DAY PENALTY	ECONOMIC BENEFIT	TOTAL PENALTY
COUNT 1: Failing to meet the design and installation requirements for a new tank system and/or by Failing to meet secondary containment requirements. Failing to meet the daily inspection requirements	OAC 3745-66-92(A) OAC 3745-66-92(D) OAC 3745-66-93(F) OAC 3745-66-93(B) OAC 3745-66-93(C) OAC 3745-66-95(A) OAC 3745-66-95(C)	Minor/Major	\$2,970*	\$550* X 422 days = \$232,100	\$11,257	\$246,327
COUNT 2: Failing to mark equipment. Failing to monitor equipment. Failing to meet the recordkeeping requirements	40 CFR §265.1050(c) 40 CFR §265.1052(a) 40 CFR §265.1052(c) 40 CFR §265.1057(a) 40 CFR §265.1064	Minor/Major	\$2,970*	\$550* X 422 days = \$232,100	\$3,410	\$238,480
COUNT 3: Failing to perform inspections of the fixed roof and its closure devices. Failing to maintain records of the annual inspections of the fixed roof and its closure device	40 CFR §265.1085(c) 40 CFR §265.1090(b)	Minor/ Moderate	\$1,350*	\$1,350*	\$43	\$2,743
TOTAL					\$487,550	\$487,550

*Denotes noncompliance occurring after January 31, 1997

PENALTY COMPUTATION WORKSHEET
COUNT 1

Facility Name: DaimlerChrysler - Toledo Assembly Plant #1
Address: 1000 Jeep Parkway, Toledo, Ohio 43657

Requirement Violated: Storage of hazardous waste without a permit by failing to meet the conditions for permit exemption in OAC 3745-52-34, in particular, the following tank requirements:
OAC 3745-66-92 - design and installation requirements for new tanks
OAC 3745-66-93 - secondary containment
OAC 3745-66-95 (A) - (C) daily tank system inspections

PENALTY AMOUNT

- | | | |
|-----|-------------------------------------------------------------|----------------------|
| 1. | Gravity based penalty from matrix..... | <u>\$2,970.00*</u> |
| | (a) Potential for harm | <u>Minor</u> |
| | (b) Extent of Deviation | <u>Major</u> |
| 2. | Select an amount from the appropriate multi-day matrix cell | |
| | (a) Prior to Inflation Act 1996 (0 days)..... | <u>\$0.00</u> |
| 3. | Select an amount from the appropriate multi-day matrix cell | |
| | (a) Post-Inflation Adjustment Act (422 days) | <u>\$232,100.00*</u> |
| 4. | Add lines 1, 2(a) and 3(a)..... | <u>\$235,070.00</u> |
| 5. | Percent increase/decrease for good faith | <u>0%</u> |
| 6. | Percent increase for willfulness/negligence | <u>0%</u> |
| 7. | Percent increase for history of noncompliance | <u>0%</u> |
| 8. | Percent increase/decrease for other unique factors.. | <u>0%</u> |
| 9. | Add lines 5,6,7, and 8 | <u>0</u> |
| 10. | Multiply line 4 by 9 | <u>\$235,070.00</u> |
| 11. | Add lines 4 and 10 | <u>\$11,257.00</u> |
| 12. | Calculate economic benefit | <u>\$246,327.00</u> |
| 13. | Add lines 11 and 12 | |

* Denotes noncompliance after January 31, 1997

NARRATIVE EXPLANATION

Count 1

1. Gravity Based Penalty

(a) Potential for Harm: Minor

1. Harm to human health and environment: The 1990 RCRA Civil Penalty Policy [Policy] directs the Agency to determine the seriousness of a violation before assigning a penalty. The penalty is to be based on the circumstances and facts specific to Respondent's mismanagement of hazardous waste as it potentially impacts human health and environmental receptors. The potential for harm is arrived at after engaging in a two-step process which assesses the probability of exposure and the potential seriousness of any exposure.

The Respondent failed to obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer for a new tank system. The Respondent also failed to provide U.S. EPA with evidence that the secondary containment met the standards for a new tank system. And finally, the Respondent failed to conduct daily inspections of the tank system from July 31, 2000 through the issuance of this complaint on September 27, 2001, a total of 422 days.

The new tank system manages spent purge solvent and spent paint related materials containing hazardous constituents: methyl isobutyl ketone, N-Butyl acetate, and xylene. Although the presence of these constituents renders this waste "hazardous" by definition for the characteristic of ignitability, none of these constituents are considered "toxic" as defined in OAC 3745-51-24.

Respondent's failure to have performed the written assessment for a period of 422 days has left the Agency uncertain whether the new tank system and its components were adequately designed and installed properly. Because the assessment was not conducted, U.S. EPA does not know whether the

tank system had sufficient structural integrity to be used for the management of hazardous waste.

The Agency considered that the two 3,200 gallon storage tanks, along with the associated ancillary equipment were not tested for tightness prior to being placed in use. The Agency also factored in that the discharge line, a component of the ancillary equipment, used to convey waste from the two 3,200 gallon tanks to the "pump-out box" was covered up with earthen material and put into use before a tightness test had been performed.

The tank system had not been tested for tightness. This provides evidence that the Respondent did not take adequate provisions for preventing a release. The tank tightness test is designed to provide assurance that the tank system has been properly installed.

The Agency then considered any evidence of releases or general mismanagement. First, no residues or staining was seen surrounding either of the storage tanks located in the solvent recovery system room. The room was well maintained, clean, and well lit. The floor and the lower portion of the walls within the room appeared to have been coated with an impermeable substance.

Second, the Agency looked at the buried discharge line which connects the two storage tanks to the pump-out box. No surface staining or residues were seen on the ground above the buried discharge line. This line appeared to be constructed of double walled piping which would reduce the risk of release to the environment.

Third, the Agency looked at the ancillary equipment, which is located in the basement of the assembly plant. This ancillary equipment connects the storage tanks to the paint booths. The basement has a concrete floor. Although there was no evidence that an impermeable coating had been applied to the basement concrete floor, no cracks or gaps were observed in the floor. As was the case with solvent recovery system room, any potential release from the ancillary equipment

located in the basement would be contained inside the building, and would thus, present less of a risk of release to the environment.

The Agency considered the potential seriousness to human health and the environment if exposure had occurred. Respondent's waste is hazardous waste due to its characteristic of ignitability. The most likely risk to human health would come from an ignition source being introduced to a release or spill. The majority of this tank system is located in areas which are out of direct contact from most production workers. The basement is equipped with a fire suppression system in the event that an ignition source did ignite a release, further reducing the likelihood that production workers up on the assembly line would be exposed. The Agency does not have sufficient information regarding the Respondent's hazardous waste so as to analyze the impacts of a release on the environment.

The Respondent's violation posed a relatively low risk of exposure to humans or environmental receptors. U.S. EPA arrived at this minor potential for harm after considering: 1) the newness and the condition of the tank system, 2) that most of the system was contained inside the building and 3) lack of toxicity associated with the waste and the minimal seriousness to humans and the environment if the waste was released.

2. Harm to the RCRA program: The Agency is required to determine if the RCRA program has been hurt as a result of a violation. As mentioned above, the independent assessment provides the starting point from which U.S. EPA evaluates a tank system for compliance. Records of daily inspections provide the Agency with some assurance that good management practices are in place at the facility on the days when U.S. EPA is not present. Both items provide invaluable information to the Agency when it conducts a compliance monitoring inspection. However, the Agency determined that with respect to the unique facts for this case, focusing solely on these two items overstated the potential for harm to humans and the environment by omitting consideration of the following: 1) the

system is predominantly located within the building, 2) was almost new and in good condition, and 3) the lack of toxicity associated with the waste.

(b) Extent of Deviation: Major

The Agency assigned a ranking of major for the extent of deviation from regulatory requirements. The Respondent failed to provide any of the necessary safeguards ensuring adequate design and proper installation of the tank system, along with documentation that the secondary containment prevented releases to the environment. The Respondent also completely disregarded the requirement to conduct daily inspections of the tank system. Respondent's failure to have complied with these three requirements justifies the assignment of major to the extent of deviation for this violation.

(c) Adjustment within the cell: 80th percentile in the cell

The Policy directs the Agency to carefully evaluate the specific facts of the case before "fine tuning" a dollar amount. Factors include: seriousness of the violation in relationship to other violations falling within the same cell; efforts at remediation or degree of cooperation; the size and sophistication of the Respondent; and the number of days of noncompliance and other relevant matters. The case manager concluded after weighing all the facts that placing the penalty at the 80 percentile of the cell was appropriate.

A substantial upward adjustment within the cell was assigned after considering the following: 1) number of days of noncompliance. The Respondent operated this tank system for 422 days without having done an assessment, verifying the adequacy of secondary containment, or conducting daily inspections; and 2) Respondent's size and sophistication. Respondent is a Fortune 500 company with auto assembly plants located worldwide, having a corporate environmental staff and trained environmental staff at the facility.

When the Agency considered the seriousness of the violation in relationship to other violations within the same cell and efforts at remediation or degree of cooperation it assigned those factors a neutral bias

and thus they had no bearing on the Agency's determination of the proper placement within the cell.

Other relevant matters were considered and given a neutral ranking.

A penalty amount of \$2,970, adjusted for the Inflationary Act, is being proposed for the first day of gravity.

2. Multi-day Penalty:

Pursuant to the Policy, multi-day penalties are presumed for days 2 through 180 for all Minor/Major violations. The tank system operated for 422 days without an assessment, proof that secondary containment was adequate, and without daily inspections. The Agency carefully considered this extended period of noncompliance and has elected to assign a penalty amount to each day the Respondent operated out of compliance.

The case manager concluded that it was appropriate to assess a penalty for each day of noncompliance in part because the Agency's position that the regulations at issue in this case did apply to the automobile industry was a publicly known position as early as 1997. Respondent continued to violate these regulations even after being inspected in April 2001 and after it was advised by the Agency in August 2001 that we believed the regulations at issue did apply to Respondent's automobile painting operations. Given the size and sophistication of Respondent, Respondent knew or should have known of the Agency's position and should have been able to come into compliance. Further, the case manager determined that assessing a penalty for each day of noncompliance was necessary so as to deter future noncompliance. Staying consistent with the first day of gravity for this penalty, the 80th percentile of the monetary range was selected. Selecting the same relative position within the range again was largely influenced by Respondent's size and sophistication, and the total number of days the Respondent was noncompliant with the tank requirements.

Respondent's noncompliance occurred after the promulgation of the 1996 Inflation Adjustment Act, mandating a 10% increase of the amounts used published in the Policy.

3. Adjustment Factors

- (a) Good Faith: not applicable
- (b) Willfulness/Negligence: not applicable
- (c) History of Compliance: not applicable
- (d) Ability to pay: No adjustment at this time
- (e) Environmental Project: No adjustment at this time
- (f) Other Unique Factors: not applicable

4. Economic Benefit

The economic benefit for this violation, using the BEN Model, was estimated to be \$11,257. This was based on the following assumptions: A one-time nondepreciable expenditure of \$13,160 required before the tank system was put into use; a one-time non-depreciable expense of applying an impermeable coating for the basement floor of \$10,000 and an annual expense of \$500 for patching the cracks in the secondary containment or applying limited amounts of impermeable coating to areas that had worn; and an annual recurring cost of \$6,500 attributed to conducting daily inspections of the tank system. [See Attached Ben printout for more details].

According to pg. 26 of the Policy, economic benefit of more than \$2,500 is considered significant. The economic benefit from the seven counts delineated in the complaint exceeded this threshold, and thus, the \$11,257 has been included in the calculation of a proposed penalty amount for Count 1.

Run Name = DCC1a	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$7,587
B) Delay Capital & One-Time Costs	\$6,381
C) Avoided Annually Recurring Costs	\$0
D) Initial Economic Benefit (A-B+C)	\$1,207
E) Final Econ. Ben. at Penalty Payment Date,	
01-Jul-2002	\$1,471
<i>Ec. ben. from illegal competitive advantage</i>	
<i>may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	31-Jul-2002
Compliance Date	
Capital Investment:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A; N/A
# of Replacement Cycles; Useful Life	N/A
Projected Rate for Future Inflation	
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$13,160
Cost Estimate Date	07-Mar-2002
Cost Index for Inflation	PCI
Tax Deductible?	Y
Annually Recurring Costs:	
Cost Estimate	\$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
User-Customized Specific Cost Estimates:	N/A
On-Time Compliance Capital Investment	
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

Run Name = DCC1b	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$5,766
B) Delay Capital & One-Time Costs	\$4,890
C) Avoided Annually Recurring Costs	\$511
D) Initial Economic Benefit (A-B+C)	\$1,386
E) Final Econ. Ben. at Penalty Payment Date,	
01-Jul-2002	\$1,691
<i>Ec. ben. from illegal competitive advantage</i>	
<i>may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	01-Jul-2002
Compliance Date	
Capital Investment:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A; N/A
# of Replacement Cycles; Useful Life	N/A
Projected Rate for Future Inflation	
One-Time, Nondepreciable Expenditure:	\$10,000
Cost Estimate	08-Mar-2002
Cost Estimate Date	PCI
Cost Index for Inflation	Y
Tax Deductible?	
Annually Recurring Costs:	\$500
Cost Estimate	08-Mar-2002
Cost Estimate Date	PCI
Cost Index for Inflation	N/A
User-Customized Specific Cost Estimates:	
On-Time Compliance Capital Investment	
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

Run Name = DCC1c	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$0
B) Delay Capital & One-Time Costs	\$0
C) Avoided Annually Recurring Costs	\$6,638
D) Initial Economic Benefit (A-B+C)	\$6,638
E) Final Econ. Ben. at Penalty Payment Date,	\$8,095
01-Jul-2002	
<i>Ec. ben. from illegal competitive advantage may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	01-Jul-2002
Compliance Date	
Capital Investment:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A; N/A
# of Replacement Cycles; Useful Life	N/A
Projected Rate for Future Inflation	
One-Time, Nondepreciable Expenditure:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
Tax Deductible?	
Annually Recurring Costs:	\$6,500
Cost Estimate	08-Mar-2002
Cost Estimate Date	PCI
Cost Index for Inflation	N/A
User-Customized Specific Cost Estimates:	
On-Time Compliance Capital Investment	
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

PENALTY COMPUTATION WORKSHEET
COUNT 2

Facility Name: DaimlerChrysler - Toledo Assembly Plant #1
Address: 1000 Jeep Parkway, Toledo, Ohio 43657

Requirement Violated: Storage of hazardous waste without a permit by failing to meet the conditions for permit exemption in OAC 3745-52-34, in particular, the following air emission requirements:

- 40 CFR §265.1050(c) - marking of equipment
- 40 CFR §265.1052(a)(1) - monthly monitoring of pumps
- 40 CFR §265.1052(a)(2) - visual inspections of pumps
- 40 CFR §265.1057(a) - monitoring of valves
- 40 CFR §265.1064(b)(1) - recordkeeping requirements

PENALTY AMOUNT

- | | | |
|-----|-------------------------------------------------------------|----------------------|
| 1. | Gravity based penalty from matrix..... | <u>\$2,970.00*</u> |
| | (a) Potential for harm | <u>Minor</u> |
| | (b) Extent of Deviation | <u>Major</u> |
| 2. | Select an amount from the appropriate multi-day matrix cell | |
| | (a) Prior to Inflation Act 1996 (0 days)..... | <u>\$0.00</u> |
| 3. | Select an amount from the appropriate multi-day matrix cell | |
| | (a) Post-Inflation Adjustment Act (422 days) .. | <u>\$232,100.00*</u> |
| 4. | Add lines 1, 2(a) and 3(a) | <u>\$232,100.00</u> |
| 5. | Percent increase/decrease for good faith | <u>0%</u> |
| 6. | Percent increase for willfulness/negligence | <u>0%</u> |
| 7. | Percent increase for history of noncompliance | <u>0%</u> |
| 8. | Percent increase/decrease for other unique factors .. | <u>0%</u> |
| 9. | Add lines 5, 6, 7, and 8 | <u>0</u> |
| 10. | Multiply line 4 by 9 | <u>\$235,070.00</u> |
| 11. | Add lines 4 and 10 | <u>\$3,410.00</u> |
| 12. | Calculate economic benefit | <u>\$238,480.00</u> |
| 13. | Add lines 11 and 12 | |

NARRATIVE EXPLANATION

Count 2

1. Gravity Based Penalty

(a) Potential for Harm: Minor

1. Harm to human health and environment: The 1990 RCRA Civil Penalty Policy [Policy] directs the Agency to determine the seriousness of a violation by considering the circumstances and case specific facts. The Policy delineates the potential for harm into two distinct assessments: 1) the probability of exposure, and 2) the potential seriousness of any exposure.

The Respondent failed to mark any pieces of equipment associated with the hazardous waste tank system, visually inspect pumps on a weekly basis, monitor pumps and valves on a monthly basis, and make and preserve a record of those monitoring events. Respondent, therefore, did not meet any of the Subpart BB requirements. And finally, the Respondent failed to comply with any aspect of the Subpart BB air emission requirements from July 31, 2000 through the issuance of this complaint on September 27, 2001, a total of 422 days.

The Respondent's hazardous waste tank system manages spent purge solvent and spent paint related materials containing hazardous constituents: methyl isobutyl ketone, N-Butyl acetate, and xylene. Although the concentration of these constituents exceeds the regulatory threshold for organic concentration, the inspector did not observe any evidence of an actual release of volatile organics.

Mismanagement of waste: There was no evidence of mismanagement of hazardous waste resulting from Respondent's failure to mark, visually inspect, monitor, and preserve records of those events.

Provisions to detect releases: Respondent's failure to mark equipment created an impediment for the person assigned to conduct visual

inspections. Without the aid of a marking, personnel may have been slowed and less thorough with regard to what specific pieces of equipment required routine visual inspections or monitoring. The requirement to mark is designed to serve as a guide, a quick reference device. The failure to monitor pumps and valves was more serious, but in this instance, created minor potential for harm due to the newness of the tank system.

The review of the factors relevant to this violation support a conclusion that this violation was less serious, warranting the assignment of minor potential for harm. The minor ranking for harm was merited after considering each of the above specific factors.

2. Harm to the RCRA program: The Agency assigned a minor ranking for harm after considering the significance of this violation to the RCRA program. Respondent's failure to mark specific equipment was seen as creating a relatively low risk and only slightly undermining the Agency's effort to protect the public from air emissions resulting from leaking equipment. The requirement to mark has two key elements: to make the task of visual inspections/monitoring easier; and to facilitate internal communications when a piece of equipment needs to be repaired. The marking requirement also is of import to the Agency during RCRA compliance monitoring inspections. The case manager concluded that in this instance, for this set of facts, the risk was lower than other circumstances where the same violations occurred. This was due to the age and the condition of the system and the extremely low volatility of the purge solvent, each contributing substantially to making a ranking of minor harm appropriate.

(b) Extent of Deviation: Major

The Respondent significantly deviated from all Subpart BB requirements. Therefore, when the Agency determined the extent of deviation from the requirements, it determined that Respondent's deviation was major.

(c) Adjustment within the cell: 80% from the bottom

The Policy requires that the Agency proceed with the selection of a dollar amount from a monetary range provided for each matrix cell. Factors include: seriousness of the violation in relationship to other violations falling within the same cell; efforts at remediation or degree of cooperation; the size and sophistication of the Respondent; and the number of days of noncompliance and other relevant matters.

First, the Respondent is a Fortune 500 corporation with corporate and environmental staff charged with overseeing the facility's compliance with RCRA. This information supported a significantly higher selection than the mid-point of the monetary range. Second, the Respondent failed to comply with any aspect of the Subpart BB requirements for 422 days, warranting the selection of a much higher monetary amount than the mid-point of the range of numbers provide for this matrix. Third, seriousness of the violation in relationship to other violations within the same cell and efforts at remediation or degree of cooperation were seen as a neutral bias and thus had no bearing on the Agency's determination of the proper point within the cell.

After reviewing these factors collectively, the case manager concluded that the 80th percentile level of the cell was appropriate within the monetary range. This resulted in a first day of gravity of \$2,970 being proposed for Count 2.

2. Multi-day Penalty:

Pursuant to the Policy, multi-day penalties are presumed for days 2 through 180 for all Minor/Major violations. The Respondent operated this tank system in a noncompliant mode for 422 days. The Agency considered it appropriate to assess a penalty for each day of noncompliance and has proposed penalties for each of those days.

The case manager concluded that it was appropriate to assess a penalty for each day of noncompliance in part because the Agency's position that the regulations at issue in this case did apply to the automobile industry was a publicly known position as early as 1997. Respondent continued to violate

these regulations even after being inspected in April 2001 and after it was advised by the Agency in August 2001 that we believed the regulations at issue did apply to Respondent's automobile painting operations. Given the size and sophistication of Respondent, Respondent knew or should have known of the Agency's position and should have been able to come into compliance. Further, the case manager determined that assessing a penalty for each day of noncompliance was necessary so as to deter future noncompliance. Staying consistent with the first day of gravity for this penalty, the 80th percentile of the monetary range was selected. Selecting the same relative position within the range again was largely influenced by Respondent's size and sophistication, and the total number of days the Respondent was noncompliant with the marking requirement.

Respondent's noncompliance occurred after the promulgation of the 1996 Inflation Adjustment Act, mandating a 10% increase of the dollar amounts published in the Policy.

3. Adjustment Factors

- (a) Good Faith: not applicable
- (b) Willfulness/Negligence: not applicable
- (c) History of Compliance: not applicable
- (d) Ability to pay: No adjustment at this time
- (e) Environmental Project: No adjustment at this time
- (f) Other Unique Factors: not applicable

4. Economic Benefit

The economic benefit for this violation, using the BEN Model, was estimated to be \$3,410. This was arrived at after making the following assumptions: A discounted/compound rate of 10.9%; a one-time nondepreciable expenditure of \$4,500 for a PID monitoring device; a one-time nondepreciable expenditure of \$8,000 required to mark each piece of affected equipment before the tank system was put into use, and an annual expense of \$500 for remarking pieces of equipment that have been replaced or have lost their marking; a one-time nondepreciable cost for setting up a monitoring system of \$4,000 and a annual cost of \$650 for conducting visual inspections and monthly monitoring; and a one-time nondepreciable cost of \$400 for setting up a record system and an annual cost \$140 for recording monitoring events. [See Attached Ben printouts for more details].

According to pg. 26 of the Policy, economic benefit of more than \$2,500 is considered significant. The economic benefit from the three counts delineated in the complaint exceed the threshold amount and has been included in the calculation of a proposed penalty amount for Count 2.

Run Name = DCC2a	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$4,612
B) Delay Capital & One-Time Costs	\$3,912
C) Avoided Annually Recurring Costs	\$511
D) Initial Economic Benefit (A-B+C)	\$1,211
E) Final Econ. Ben. at Penalty Payment Date, 01-Jul-2002	\$1,477
<i>Ec. ben. from illegal competitive advantage may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	01-Jul-2002
Compliance Date	
Capital Investment:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A; N/A
# of Replacement Cycles; Useful Life	N/A
Projected Rate for Future Inflation	
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$8,000
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
Tax Deductible?	Y
Annually Recurring Costs:	
Cost Estimate	\$500
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
User-Customized Specific Cost Estimates:	
On-Time Compliance Capital Investment	N/A
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

Run Name = DCC2b		31-Jul-2009
Present Values as of Noncompliance Date (NCD)		
A) On-Time Capital & One-Time Costs		\$2,594
B) Delay Capital & One-Time Costs		\$2,200
C) Avoided Annually Recurring Costs		\$0
D) Initial Economic Benefit (A-B+C)		\$394
E) Final Econ. Ben. at Penalty Payment Date, 01-Jul-2002		\$480
<i>Ec. ben. from illegal competitive advantage</i>		
<i>may also be present: see detailed printouts.</i>		
C-Corporation w/ OH tax rates		10.9%
Discount/Compound Rate		BEN
Discount/Compound Rate Calculated By:		01-Jul-2002
Compliance Date		
Capital Investment:		\$0
Cost Estimate		N/A
Cost Estimate Date		N/A
Cost Index for Inflation		N/A; N/A
# of Replacement Cycles; Useful Life		N/A
Projected Rate for Future Inflation		
One-Time, Nondepreciable Expenditure:		\$4,500
Cost Estimate		08-Mar-2002
Cost Estimate Date		PCI
Cost Index for Inflation		Y
Tax Deductible?		
Annually Recurring Costs:		\$0
Cost Estimate		N/A
Cost Estimate Date		N/A
Cost Index for Inflation		N/A
User-Customized Specific Cost Estimates:		
On-Time Compliance Capital Investment		
Delay Compliance Capital Investment		
On-Time Compliance Replacement Capital		
Delay Compliance Replacement Capital		
One-Time Compliance Nondepreciable		
Delay Compliance Nondepreciable		

Run Name = DCC2c	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$2,306
B) Delay Capital & One-Time Costs	\$1,956
C) Avoided Annually Recurring Costs	\$664
D) Initial Economic Benefit (A-B+C)	\$1,014
E) Final Econ. Ben. at Penalty Payment Date,	
01-Jul-2002	\$1,236
<i>Ec. ben. from illegal competitive advantage</i>	
<i>may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	01-Jul-2002
Compliance Date	
Capital Investment:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A, N/A
# of Replacement Cycles; Useful Life	N/A
Projected Rate for Future Inflation	
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$4,000
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
Tax Deductible?	Y
Annually Recurring Costs:	
Cost Estimate	\$650
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
User-Customized Specific Cost Estimates:	N/A
On-Time Compliance Capital Investment	
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

Run Name = DCC2d	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$231
B) Delay Capital & One-Time Costs	\$195
C) Avoided Annually Recurring Costs	\$143
D) Initial Economic Benefit (A-B+C)	\$178
E) Final Econ. Ben. at Penalty Payment Date,	
01-Jul-2002	\$217
<i>Ec. ben. from illegal competitive advantage</i>	
<i>may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	
Compliance Date	01-Jul-2002
Capital Investment:	\$0
Cost Estimate	N/A
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
# of Replacement Cycles; Useful Life	N/A
Projected Rate for Future Inflation	N/A
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$400
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
Tax Deductible?	Y
Annually Recurring Costs:	
Cost Estimate	\$140
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
User-Customized Specific Cost Estimates:	N/A
On-Time Compliance Capital Investment	
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

PENALTY COMPUTATION WORKSHEET
COUNT 3

Facility Name: DaimlerChrysler - Toledo Assembly Plant #1
Address: 1000 Jeep Parkway, Toledo, Ohio 43657

Requirement Violated: Storage of hazardous waste without a permit by failing to meet the conditions for permit exemption in 40 CFR \$262.34(a)(ii), in particular, the following:

- 40 CAR \$265.1085(c) - initial and annual inspections of the fixed roof and its closure devices
- 40 CAR \$265.1090(b) - not maintaining records of the initial and annual inspections of the fixed roof and its closure devices

PENALTY AMOUNT

1. Gravity based penalty from matrix..... \$1,350.00*
 - (a) Potential for harm Minor
 - (b) Extent of Deviation Moderate
2. Select an amount from the appropriate multi-day matrix cell
 - (a) After effective date of Inflation Act 1996..... \$0.00
3. Multiply line 2 by number of additional days of violation
 - (a) Post-Inflation Adjustment Act (1 events).. \$1,350.00*
4. Add line 1 and line 3(a)..... \$2,700.00
5. Percent increase/decrease for good faith 0%
6. Percent increase for willfulness/negligence 0%
7. Percent increase for history of noncompliance 0%
8. Percent increase/decrease for other unique factors.. 0%
9. Add lines 5,6,7, and 8 0
10. Multiply line 4 by 9 \$2,700.00
11. Add lines 4 and 10 \$43.00
12. Calculate economic benefit \$2,743.00
13. Add lines 11 and 12 \$2,743.00

NARRATIVE EXPLANATION

Count 3

1. Gravity Based Penalty

(a) Potential for Harm: Minor

1. Harm to human health and environment: The 1990 Penalty Policy [Policy] instructs the Agency to consider the seriousness of a violation by considering the circumstances and case specific facts. This is accomplished by performing an analysis of the probability of exposure and the ensuing assessment of the potential seriousness of an exposure.

The Respondent failed to perform the initial inspection of the fixed roof and closure devices on the two 3,200 gallon storage tanks. This inspection was to be performed before the first time hazardous waste was placed in the tank. The Respondent also failed to perform a similar inspection of the fixed roof and closure devices at the conclusion of the first year of operation of the two storage tanks.

U.S. EPA's inspector observed that the fixed roof was designed as an integral part of the tank and that there were no visible cracks, gaps, or other open spaces between the interface of the roof edge and the tank wall. The inspector also noted that the closure devices were closed and did not have cracks, gaps, or holes. No detectable residues or staining was viewed on either of the tank's fixed roofs.

There was no evidence of mismanagement of hazardous waste resulting from Respondent's failure to perform either of these inspections or establish a record of these events.

Respondent's failure to have performed these two inspections created an impediment to Agency inspectors responsible for determining compliance with all aspects of the Subpart CC requirements.

The review of the factors relevant to this violation support a conclusion that this violation was less serious, warranting the assignment of a minor potential for harm. The minor ranking was merited after considering each of the above factors..

2. Harm to the RCRA program: The Agency assigned a minor ranking for harm after considering the significance of these violations to the RCRA program. The Respondent did not comply with two elements of the Subpart CC requirements for inspecting and recordkeeping. However, the Respondent did perform a maximum organic vapor pressure test and did install the correct control device after performing the test. The failure to perform the two visual inspections was seen as creating a relatively low risk and only slightly undermined the Agency's ability to protect the public from air emissions resulting from cracks, gaps, and openings.

(b) Extent of Deviation: Moderate

The Agency assigned a ranking of moderate for the extent of deviation from regulatory or statutory requirements. The Respondent deviated from two Subpart CC requirements but had complied with the more substantial requirement, the maximum organic vapor pressure test justifying the assignment of a moderate deviation.

(c) Adjustment within the cell: 80% from the bottom

The Policy requires that the Agency select an exact dollar amount from a given range for any cell within the gravity matrix. The case manager considered each of these factors: seriousness of the violation in relationship to other violations falling within the same cell; efforts at remediation or degree of cooperation, the size and sophistication of the Respondent; and the number of days of non-compliance.

First, the Respondent is a Fortune 500 corporation with corporate and environmental staff charged with overseeing all aspects of the facility's compliance

with environmental laws and regulations. This information supports a significantly higher selection than the mid-point of the cell.

Second, the Respondent failed to perform this inspections twice, and failed to establish a record of these events by which the Agency could ensure full compliance with the Subpart CC requirements. These omissions add support to the selection of a dollar amount higher than the mid-point of the matrix cell.

Third, seriousness of the violation in relationship to other violations within the same cell along with efforts to remediate or degree of cooperation were collectively seen as having a neutral bias on the selection process and thus had no bearing in determining the exact dollar amount.

After reviewing these factors collectively, the case manager concluded that the 80th percentile of the gravity cell resulted in an appropriate dollar amount for these violations. This resulted in a first day gravity penalty of \$1,350 being proposed for Count 3.

2. Multi-day Penalty:

Pursuant to the Policy, multiple and multi-day penalties are presumed for days 2 - 180 for all Minor/Moderate violations. Different violations of the same requirement can constitute independent violations that are distinguishable from each other. In this situation, the requirement to perform the initial inspection and make a record of this inspection are indistinguishable from each other but distinguishable from the requirement to conduct the annual inspection and again preserve a record of this inspection. Therefore, it was deemed appropriate to group the initial inspection and creation of a record as the first day of gravity and assign a second day of gravity to the annually required inspection and failure to document. Since both the initial and annual inspections were required after the effective date of the 1996 Inflation Adjustment Act, a 10% increase was added to 80th percentile of the Minor/Moderate cell as they appear in the Policy's Penalty Assessment Matrix.

3. Adjustment Factors

(a) Good Faith: not applicable

Run Name = DCC3a	
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$0
B) Delay Capital & One-Time Costs	\$0
C) Avoided Annually Recurring Costs	\$15
D) Initial Economic Benefit (A-B+C)	\$15
E) Final Econ. Ben. at Penalty Payment Date,	
01-Jul-2002	\$19
<i>Ec. ben. from illegal competitive advantage may also be present: see detailed printouts.</i>	
<i>C-Corporation w/ OH tax rates</i>	
Discount/Compound Rate	10.9%
Discount/Compound Rate Calculated By:	BEN
Compliance Date	01-Jul-2002
Capital Investment:	
Cost Estimate	\$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
# of Replacement Cycles; Useful Life	N/A; N/A
Projected Rate for Future Inflation	N/A
<i>One-Time, Nondepreciable Expenditure:</i>	
Cost Estimate	\$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
Tax Deductible?	N/A
<i>Annually Recurring Costs:</i>	
Cost Estimate	\$15
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
<i>User-Customized Specific Cost Estimates:</i>	
On-Time Compliance Capital Investment	N/A
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	

Run Name =	DCC3b
Present Values as of Noncompliance Date (NCD),	31-Jul-2000
A) On-Time Capital & One-Time Costs	\$29
B) Delay Capital & One-Time Costs	\$24
C) Avoided Annually Recurring Costs	\$15
D) Initial Economic Benefit (A-B+C)	\$20
E) Final Econ. Ben. at Penalty Payment Date,	
01-Jul-2002	\$24
<i>Ec. ben. from illegal competitive advantage</i>	
<i>may also be present: see detailed printouts.</i>	
C-Corporation w/ OH tax rates	10.9%
Discount/Compound Rate	BEN
Discount/Compound Rate Calculated By:	
Compliance Date	01-Jul-2002
Capital Investment:	
Cost Estimate	\$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
# of Replacement Cycles; Useful Life	N/A; N/A
Projected Rate for Future Inflation	N/A
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$50
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
Tax Deductible?	Y
Annually Recurring Costs:	
Cost Estimate	\$15
Cost Estimate Date	08-Mar-2002
Cost Index for Inflation	PCI
User-Customized Specific Cost Estimates:	N/A
On-Time Compliance Capital Investment	
Delay Compliance Capital Investment	
On-Time Compliance Replacement Capital	
Delay Compliance Replacement Capital	
One-Time Compliance Nondepreciable	
Delay Compliance Nondepreciable	